IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.85 OF 2002

Hindustan Petroleum Corporation Ltd. ... Petitioners.

vs.

M/s.Frontier Civil Corpn.(Delhi) Pvt.Ltd.
and another. .... Respondents.

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Mr.V.C.Kotwal with M.D.Siodia & Ms.D.S.Retiwala i/b. M/s.Rustomji & Ginwala, for Petitioners.

Mr.G.S.Manaswala, for Respondents.

**CORAM: D.K.DESHMUKH,J**.

**DATED: 5th July,2005**

**P.C**.:-

1. I have heard the learned Counsel for both the sides. Perusal of the Award shows that the learned Arbitrator has awarded the amount by the Award without considering the provisions of the Contract. The learned Arbitrator has also not given any reasons for making the Award. Perusal of the Award shows that the learned Arbitrator has directed to refund the amount of bank guarantee with interest to the respondents without considering that as to why the bank

guarantee was given, and whether the purpose for which the bank guarantee was given was fulfilled or not, whether the petitioner was justified in encashing the bank guarantee or not. Similar thing can be said about the other items that have been awarded. However, as I propose to remand the matter back for reconsideration, it is not appropriate to express any opinion at this stage. In the result therefore, in my opinion, following order would meet the ends of justice:-

(i) The Award impugned in this petition is set aside.

(ii) The Hon'ble Mr.Justice A.B.Palkar (Retired) is appointed as Arbitrator. The disputes between the parties in relation to which the Award has been made are referred to the learned Arbitrator for decision in accordance with law. The learned Arbitrator shall hear the parties on the basis of material which is already produced by the parties and shall make Award as expeditiously as possible.

Petition is disposed of.

Petitioner to communicate the order to the learned Arbitrator.

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